

General Information Letter: Petition to file a composite return on behalf of beneficiaries of a trust cannot be granted because IITA Section 502(f) does not permit composite returns for beneficiaries of trusts.

March 9, 2000

Dear:

This is in response to your letter dated February 16, 2000, in which you request permission to file a composite return. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

We are asking permission to file form IL-1023-C under special circumstances as follows:

**Background Information:**

xxxxxxxxxxxxxxxxxxxxxxxxxxxx (xxx) is a partnership providing public accounting services to its clients. xxx has for several years filed a composite return (IL-1023-C) in your state on behalf of its nonresident partners. Our most recent return filed was for the fiscal year ending 04/30/99 in which a total of \$360,735 in composite taxes was remitted to Illinois for nonresident partners. On August 2, 1999 xxx sold a segment of its business to xxxxxxxxxx. Part of the sale proceeds were in the form of an installment contract. In January of 2000 the partners as a group transferred their installment contract to an Iowa based grantor trust. This created a situation whereby the partners of xxx will receive apportioned Illinois source income from the trust rather than xxx. However, because xxx retained a business segment it will also continue to generate income going forward. Therefore, for the year 2000 and thereafter the xxx partners will have the following sources of apportioned Illinois source income:

1. xxxxxxxxxxxxxxxxxxxxxxxxxxxx (EIN: xxxxxxxxxx) a partnership with a fiscal year ending April 30. The partnership will continue to file a Form IL-1065 and apportion Illinois source income to nonresidents. All of the partners will be members of the Trust discussed below.
2. xxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxx  
xxxxxx (EIN: xxxxxxxxxx) an Iowa based grantor trust with a calendar year ending December 31. The trust will apportion Illinois source capital gains to nonresidents. Most (not all) of the trust members are partners in the xxx partnership.

**The problem:**

The enclosed instructions to Form IL 1023-C (Illinois Composite Tax Return) indicate that to be included on a composite return a member may not have other sources of Illinois income. As noted in the background information above, for the year 2000 and going forward the

xxx partners may be deemed to have more than one source of Illinois income.

**Our Request:**

We respectfully request that for purposes of filing a composite return we be allowed to combine the Illinois source income from the grantor trust of each electing member with the corresponding income earned from the partnership. We believe this approach would benefit the Illinois Department of Revenue in terms of reducing the number of individual tax returns to be processed. Further, we believe the Illinois Department of Revenue will further benefit by collecting more in taxes than if each partner were required to file separately.

The difference in fiscal years does create some challenge. A typical partner will receive apportioned Illinois income from the partnership for the partnership's fiscal year ending 04/30/2000. Further, the same partner will receive some apportioned Illinois capital gain income from the trust during the period ending 12/31/2000. If we file a combined return on a fiscal year basis we will be unable to include the member's trust income earned during the period 05/01/2000 through 12/31/2000. Therefore, we request that in order to combine both sources of income we be allowed to report April 30 partnership income on a calendar year composite return.

If permission is granted, we would prepare the Form IL 1023-C (Illinois Composite) by clearly reconciling for each member what source of income relates to the partnership and what source relates to the grantor trust.

**Conclusion:**

We believe that no other method of filing would achieve the same degree of compliance and administrative ease. I would welcome an opportunity to discuss these issues over the phone.

**Response**

Section 502(f) of the Illinois Income Tax Act (the "IITA"; 35 ILCS 5/101 *et seq.*) provides:

The Department may promulgate regulations to permit nonresident individual partners of the same partnership, nonresident Subchapter S corporation shareholders of the same Subchapter S corporation, and nonresident individuals transacting an insurance business in Illinois under a Lloyds plan of operation, and nonresident individual members of the same limited liability company that is treated as a partnership under Section 1501 (a)(16) of this Act, to file composite individual income tax returns reflecting the composite income of such individuals allocable to Illinois and to make composite individual income tax payments.

This statutory provision does not permit the Department of Revenue to allow a composite return to be filed by a trust on behalf of its beneficiaries or grantors, nor does it permit the Department to allow a composite return to be filed on behalf of the owner of more than one entity. Accordingly, the

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

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